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PROTECTION OF MINORITIES

Forty-sixth session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 15 August 1994, at 3 p.m.

Chairman: Mrs. ATTAH

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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The meeting was called to order at 3.05 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1994/14 and Add.1, 15, 16, 43 and 45; E/CN.4/Sub.2/1994/NGO/5, 9, 11, 12-14 and 22)

1. Mr. ALEMU (Observer for Ethiopia) said that, in the context of general conflict prevention and resolution, increased emphasis should be given to regional arrangements, such as the OAU Mechanism for Conflict Management, Prevention and Resolution.

2. With respect to the human rights and political situation in his own country, he wished to inform the Sub-Commission that a final draft constitution had been submitted to the Council of Representatives on 22 March 1994 and would subsequently be presented for consideration and final adoption by the Constituent Assembly, consisting of 47 members who had been chosen at elections monitored by observers from the international community, political parties and community elders on 5 June 1994. The Constituent Assembly had the mandate to discuss, amend and approve the draft Constitution. A multi-party general election would then be held, leading to the transfer of power to a democratically elected Government.

3. The Transitional Government of Ethiopia sought the support of the international community in terms of civic education programmes and logistic arrangement to ensure the success of that final phase in the democratization process. He took the opportunity of thanking the Centre for Human Rights for its assistance to the Special Prosecutor's Office established to bring to justice those responsible for violations of human rights under the previous military regime.

4. Mr. AKTAN (Observer for Turkey) said that he wished to address the subject of internal conflicts of ethnic origin and the disarray that could arise from the overlapping of the two law systems applied to them, if the human rights bodies did not make a correct assessment of their nature. Such conflicts were initially organized by a very small number of individuals usually motivated by Marxist-Leninist ideology, with an overdose of ethno-nationalism and some traits of national socialism, who used a guerrilla combat method, not the traditional one but a much more efficient and cruel version that had been developed since the Second World War. A segment of the population, a small fraction of the ethnic group in question, supported the guerrillas as sympathizers and embarked on "civilian" protests, giving an impression of popular support. Their declared aim was not cultural rights, but secession and independence.

5. Theoretically, guerrilla warfare was supposed to resort to "selective terrorism" aimed at the political authority and the majority in order to bend them to its will. In practice, however, having failed to obtain support from "their" ethnic group, the guerrillas increasingly resorted to indiscriminate terrorism against it, thus becoming terrorists in an ethnic struggle in a sovereign State.

6. Human rights circles, especially Western non-governmental organizations, had apparently developed a strategy geared to supporting guerrillas rather than promoting compliance with human rights in internal conflicts. They tried to legitimize such campaigns by constantly referring to self-determination, presenting the guerrillas as representatives of the ethnic group and the conflict as one between State forces and civilians. Endeavouring to curtail the Governments's efforts to deal with the militia, they ignored or condoned the killing of innocent civilians by the guerrillas, thereby inciting them to terrorism.

7. The contemporary internal conflicts did not come within the purview of Protocol II additional to the Geneva Conventions of 1949 because of its narrow scope and high threshold. Those conflicts were of much lower intensity than civil wars. Protocol I did not apply to them either, for they could not be treated under self-determination. No State was prepared to grant terrorists an effective and objective status of "party to conflict".

8. Internal conflicts were none the less included in the scope of human rights law through the concept of public emergency, with all sorts of concomitant distortions and shortcomings. Neither the killings of innocent civilians nor the nature of terrorist warfare were taken into account by the international community, only Governments being held accountable for human rights violations against terrorist suspects. That was a scandalous and untenable situation.

9. General Assembly resolutions did not distinguish between conflicts on the basis of their intensity, so even an inter-State war could be terroristic, if terrorism was consistently resorted to as the main means of combat. Therefore, guerrilla actions could also be equated with terrorism. Terrorist guerrilla warfare was based on feigning civilian non-combatant status, a treacherous and dishonourable form of combat.

10. While not opposed to the accountability of the State for human rights violations in internal conflicts in accordance with human rights law, his Government felt strongly that human rights instances should take up the massacres of innocent civilians by terrorists and urged the entire human rights system to consider terrorist methods of warfare as a crime against humanity.

11. Mr. ANTONIO (Observer for Haiti) said the list of human rights violations in Haiti was too long to enumerate. The number of such cases had risen dramatically over the past year. The international community was duty-bound to consider ways of bringing justice to the victims.

12. An estimated 400,000 people had been displaced within the country, to which should be added the thousands of boat people who were still being sent back from the countries in which they had hoped to find provisional asylum. There was a remarkable contrast between their fate and that of refugees from other countries who were welcomed with open arms and enjoyed all the international guarantees. The Special Representative of the United States President on Haiti, had himself recognized that such discrimination was at least partly due to the colour of the Haitian refugees.

13. It could hardly be said that the international community had adopted adequate measures to force General Cédras to respect the commitments he had made under the Governor's Island Agreement. An inadequately enforced embargo had affected the Haitian people above all and not the leaders of the coup d'état, its supposed target. Drug traffic and smuggling, particularly of petrol and basic foodstuffs, had been organized and controlled by the military, thus enabling them to amass large currency reserves and ensure their financial independence of the local and international interest groups that had originally supported and financed the coup d'état.

14. A recent Security Council resolution, which authorized the establishment of a multinational force entitled to use "all necessary means" to facilitate the departure of the leaders of the coup d'état, the prompt return of President Aristide and the implementation of the Governors's Island Agreement, had given rise to some concern. Such a measure would hardly have been necessary if, at the first signs that the Agreement was not being respected, the international community had acted with proper determination, especially in implementing the sanctions already approved.

15. President Aristide had always favoured a negotiated solution to the crisis, but everything that could be negotiated with the leaders of the coup d'état had already been negotiated. All that remained was for the international community to show the necessary determination to bring about their surrender. The recent initiative to send the mediator, Dante Caputo, to Haiti again in a last effort to persuade the military to abandon power and thus avoid a military intervention was to be encouraged, if it enabled a peaceful solution to be found to the crisis.

16. Mr. ZAHRAN (Observer for Egypt) said that recent positive developments in the Middle East would, he hoped, culminate in the participation of Syria and Lebanon in the peace process. There was thus a hope that violations of human rights in the Arab occupied territories would soon end and confidence-building measures be established to accelerate the peace process.

17. There was an urgent need for a speedy settlement to the problem in Rwanda, on the basis of the Arusha Agreement, as well as for relief operations and a reinforcement of the United Nations Assistance Mission to Rwanda (UNAMIR). His delegation welcomed the Secretary-General's proposal to send a Commission of Experts to investigate human rights violations in that country.

18. In Bosnia and Herzegovina, a new apartheid was being established with the massacres, ethnic cleaning and gross violations of human rights by the Serbs. The latest rejection by the Bosnian Serbs of the peace process meant that the Government of Bosnia and Herzegovina should be exempted from the Security Council arms embargo so that it could defend the country as it was entitled to do under Article 51 of the Charter. Strict sanctions were also needed against the former Federal Republic of Yugoslavia, and monitors should be sent to ensure that the flow of assistance to the Bosnian Serbs was halted. In addition, the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Former Yugoslavia should begin its work.

19. Terrorism prevented Governments from carrying out their task of improving their peoples' lives. In Egypt, terrorist groups were hiding behind religion to kill, steal and hamper the development process. His Government was standing up to them, taking into account respect for human rights and the need to preserve the national economy. The international community was duty-bound to counter and eliminate terrorism in all its forms, and the Sub-Commission should pay more attention to the subject.

20. Mr. MELIK-CHAKHNAZAROV (Observer for Armenia) said that, since its independence, Armenia had acceded to almost all the international human rights instruments and was doing its utmost to ensure that the recognized international human rights standards were applied. A new draft Constitution had been drawn up and submitted to Parliament, and both the Constitution and the other legislation currently being drafted contained provisions directly related to the protection of fundamental human rights, e.g. the separation of powers, criminal code provisions, the administration of justice, freedom of assembly and discussion, freedom of conscience, the rights of minorities, the law on nationality, and other areas. Parliament was also considering a bill to grant compensation to the victims of past human rights abuses. In those efforts, his Government hoped for the assistance of the Centre for Human Rights and a plan for cooperation was being drawn up.

21. However, current social and economic problems were greatly impeding the process of democratization and the adoption of international human rights standards. Those problems were the result primarily of the energy and transport blockades imposed on Armenia by neighbouring States. The blockades constituted a de facto act of aggression, in violation of the basic human rights of the Armenian people, and were causing great suffering to the more vulnerable sectors of the population.

22. His Government remained committed to respecting the rights of minorities as an essential precondition for re-establishing peace in the region of its country. It strongly endorsed the idea of preventing conflicts arising from violations of minority rights, as put forward in Mr. Eide's Working Paper on the protection of minorities (E/CN.4/Sub.2/1994/36). The civil war currently being fought in the Nagorno-Karabakh area afforded a graphic illustration of what could happen as a result of indifference by the international community to violations of minority rights: in the face of continued indifference to its plight, the Armenian population of that area had acted in full accordance with the Constitution and legal provisions then in force and with international law in seceding. That secession had led to the war and to massive human rights violations.

23. It was to be hoped that the international community might yet take effective action to end those violations. His Government had long supported the initiatives put forward by the international community to achieve a speedy and equitable solution to the conflict and hoped that the cease-fire agreement, signed on 27 July 1994 by the Defence Ministers of the countries involved, would be honoured, opening the way to a more definitive peace agreement in the near future.

24. Lastly, he hoped that the international community would be more alert in the future to the potential for similar conflicts in other areas, and said that Armenia was ready to make its rightful contribution to the resolution of such conflicts.

25. Mr. da SILVA (Observer for Portugal) said that Indonesian forces continued to occupy East Timor in defiance of General Assembly and Security Council resolutions and in violation of the right to self-determination, respect for which was an essential precondition for both international peace and security and the exercise of other human rights.

26. The Sub-Commission had already expressed its deep concern at the situation in its resolution 1993/12. In a declaration adopted by consensus, the Commission on Human Rights had drawn attention to the need to ascertain the fate of the Timorese who had been missing since the events of 12 November 1991. The Indonesian authorities had committed themselves, by that declaration, to freeing the individuals who had been sentenced, improving access to the territory, and cooperating more fully with the Commission and its subordinate bodies.

27. Unfortunately, however, there had been no real improvement in the human rights situation in the territory, despite the promises made by the Indonesian Government and a few very limited and specific measures. That had been confirmed by articles in the international press which had appeared following a visit to the territory in April 1994 by 26 journalists based in Jakarta and by an Amnesty International communiqué, published on 3 August 1994, which spoke of beatings, detentions and "disappearances" of pro-independence protestors. Even Mr. Florentino Sarmento, a pro-integration member of the governing party, had been quoted by the Sunday Telegraph as saying that East Timor was a "conquered territory, living in a climate of threat, fear and war". The Bishop of Dili, Monsignor Belo, had been quoted as saying that the situation had never been worse, with Christians under constant threat of imprisonment, beatings and harassment by the police.

28. Recent events fully confirmed that the situation had if anything deteriorated. On 28 June 1994, two Indonesian soldiers had committed sacrilege in the church in Remexio. On 13 July, Indonesians had insulted a number of Catholic nuns. On 14 July, a peaceful demonstration against the attacks on the freedom of religion of the Timorese, for which permission had been obtained, had been brutally crushed by security forces; according to some reports, 6 people had disappeared and 20 had been injured. Three young Timorese had subsequently been detained, and Mateus Afonso, who allegedly organized the demonstrations, had also been reported missing, a fact which had just been confirmed by the International Committee of the Red Cross (ICRC).

29. In yet another incident on 22 July, Indonesian soldiers opened fire on a bus carrying 30 young Timorese, including a number of Sisters of Charity. No one had been injured, but the incident had heightened the tension that was already at an alarming level. On 1 August 1994, the military authorities had banned any demonstrations in the territory and had announced that the persons detained following the 14 July demonstration would be put on trial.

30. With regard to the imprisonment of the Timorese leader, Xanana Gusmão, the Portuguese Government considered that the reduction of his term of imprisonment from life to 20 years was no more than an attempt to appease the international community. Mr. Gusmão had recently spoken out strongly about the conditions in which he was being held and the fact that he had been forced to choose a lawyer against his wishes and subjected to a trial that was neither fair nor impartial.

31. There was no political justification for the human rights violations perpetrated by Indonesia in East Timor. Only by tackling the root cause of the problem would it be possible to improve the human rights situation: that meant allowing the Timorese to determine their own future. His Government strongly supported the efforts made by the Secretary-General to resolve the situation in a way which took account of international law and the basic right of the Timorese to self-determination. However, as the Secretary-General had pointed out in his last interim report to the General Assembly (A/48/418), little progress would be made in any talks without substantial improvements in the human rights situation, of which there had as yet been no evidence.

32. Mr. PAK Dok Hun (Observer for the Democratic People's Republic of Korea) said that the terrible toll in human life resulting from armed conflict, famine, disease or poverty suggested to many that the world in the post-cold-war era was more unstable than ever, while the failure of the international community to act effectively to avert such tragedy cast doubt on its commitment to protecting fundamental rights and freedoms.

33. The right to life, the most basic of all, was the most widely violated, the gravest threat to it being the economic situation which prevailed in many countries. Too little attention had hitherto been paid to the protection of economic rights, as opposed to civil and political rights, in the Commission and Sub-Commission. His delegation thought that special attention should be paid to the attainment of economic, social and cultural rights and especially to the right to development, since it was denial of those rights which were the main cause of human rights violations in developing countries.

34. It was regrettable that the human rights situation worldwide had not improved in the 46 years since the Universal Declaration of Human Rights, despite greater awareness and the numerous conventions and mechanisms which had been established. The one vital lesson of recent positive developments had been the indispensability of continuing talks under all circumstances, as a means of preventing misunderstanding and distrust. It was also vital that the human rights bodies should serve to protect human rights without appearing to threaten national sovereignty or the right of peoples to self-determination.

35. Mr. ABUDEDERI (Observer for Sudan), referring to allegations made by the International Federation of Human Rights in its written statement (E/CN.4/Sub.2/1994/NGO/9), said that they were false, contradictory and not based on first-hand knowledge of the situation.

36. With regard to the statement that the Constitution of 1985 had been abolished by Constitutional Decree No. 2, no account had been taken of the fact that adequate human rights safeguards were provided in the Electoral Laws

of 1993 and 1994 and in Constitutional Decree No. 7. Furthermore, the statutes referred to also contained provisions for the dissolution of the Revolutionary Command Council and for interim presidential and parliamentary elections.

37. It had also been alleged that the new Islamic punishments introduced in the Penal Code of 1991 were barbaric and should be revoked. His Government took the view that such Islamic punishments were required by divine law and thus could not be revoked, and that such provisions were, in any case, in conformity with international law.

38. With regard to allegations of the ill-treatment of prisoners, he noted that the former President of the Council of Ministers, who had been briefly detained, had publicly denied being tortured or ill-treated and had said that prisoners were treated in accordance with the law and given proper care. A former counsellor to the Prime Minister had also refuted allegations of torture or ill-treatment. The false allegations of that kind, which had been made in some quarters, had severely damaged the credibility of the organizations which had made them.

39. Referring to paragraph 7 of the written statement, which described the effect of the civil war on the civilian population in the south of the country, he said that the work of the Commission of Inquiry set up to investigate the situation had been impeded by the large number of alleged victims. In that connection, it should not be forgotten that the Government had an overriding duty to respond to the aggression of the rebel forces and protect the civilian population.

40. He noted that the Government had accepted many United Nations agreements, including one to open up air, sea and land routes to allow aid to get through to refugees, but the rebels had not done so and had consistently blocked or confiscated humanitarian aid. It had been the aim of the Government to resolve the north-south conflict by inter alia appointing new governors in the south as part of a plan to improve the level of development of the southern provinces and prepare the way for free elections in 1995. It had accepted recommendations aimed at putting an end to the conflict, but the rebels had adamantly rejected them.

41. As for the alleged human rights abuses in the Nuba Mountain (para. 15), he emphasized that they, too, were unfounded and drew attention to a number of eye-witness reports according to which the situation in Kadugli had greatly improved. Christians in the area were no longer in danger, and food and medical supplies were getting through without restriction.

42. Lastly, he suggested that the statement's concluding recommendations were politically motivated. He urged the members of the Sub-Commission to read reports by other organizations that had actually visited the areas concerned in order to form a more balanced view of the situation.

43. Mr. BROTODININGRAT (Observer for Indonesia), referring to the note by the Secretariat on the situation in East Timor (E/CN.4/Sub.2/1994/14, and Add.1), said that the addendum to that document appeared to restore a welcome balance to the debate. In the light of that addendum and the press release by the

Commission on Human Rights drawing attention to encouraging progress in the talks between the parties concerned, the Amnesty International report of 16 February 1994 was out of date.

44. A series of measures had been adopted by his Government to improve the situation. The establishment of a Portuguese/Indonesian Friendship Association had been matched by that of an Indonesian/Portuguese Friendship Association. The increased access allowed to East Timor in the past year had led to a substantial rise in the number of visitors. In addition to tourists, government officials, journalists, United Nations personnel, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and parliamentarians from Europe and Japan had been received. Arrangements were being made for a visit by United Kingdom parliamentarians. The situation in East Timor was not yet ideal, but his Government had done its best. The military personnel involved in various incidents had been brought to trial. The representative of a NGO who had referred to three deaths had provided no substantiating evidence.

45. It was deplorable that negative accounts of what was happening had been echoed by the observer for Portugal who, in contrast to the constructive spirit displayed at the fiftieth session of the Commission on Human Rights, had seen fit to overdramatize incidents that had already been settled. In his attempt to score points, he had disregarded the non-political nature of the Sub-Commission.

46. Some NGOs had referred to Acheh, Sumatra, and to the 1989 incident, when criminal elements had terrorized the area and the situation had been exploited by a handful of separatists. His Government had had no choice but to restore law and order. The captured terrorists had been duly tried, and those not found guilty released. Acheh was one of the most developed provinces of Indonesia, with a very promising future.

47. Details of the cases mentioned by the representative of the International Confederation of Free Trade Unions had been supplied to the International Labour Organisation (ILO) a few weeks previously.

48. Mrs. Palley's lack of knowledge of Indonesia was surprising. Indonesia might still be underdeveloped and have a long way to go, but its population consisted of a single people which, after a harrowing struggle for independence, was determined to preserve the country's territorial integrity. He hoped that the Sub-Commission would adopt an objective and constructive approach to the issues raised.

49. Mr. SALMAN (Observer for Iraq) said that human rights law formed part of international law and his Government had subscribed to the relevant international instruments and had established mechanisms for implementing them. However, human rights could also be used as a tool for intimidation and blackmail. Iraq was still prey to an unjust situation in which certain countries had a well-known interest in controlling the region and looting his country's wealth. Double standards had been applied. The oppressive economic embargo was having disastrous consequences for the population, while the war had severely damaged the country's infrastructure. Human rights issues were being used to create a crisis and to disunite Iraq.

50. In every report published on Iraq, new subjects were raised, usually based on unreliable information. The report of the Commission's Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1994/58) contained accusations that had nothing to do with what was stated in other reports. The report of the Special Rapporteur, which was supposed to be a source of reliable information, was not accurate. For example, he asserted that Iraq was using chemical weapons in the marshes, but the special committee set up to investigate the matter had found that to be untrue. The accounts of what was happening in the marshes thus lacked credibility. His Government had merely traced criminals who had sneaked in from Iran and had sought a refuge there. A bizarre campaign was under way to accuse his Government of trying to dry up the marshes, but it was merely implementing projects based on studies made by Western consultants as early as 1954.

51. His Government was also accused of responsibility for what was happening in the north of the country, which was ruled by armed gangs and was outside its control. The Governments that supported those gangs were completely passive, and their concern for the Kurds was false. The deployment of monitors would only disrupt Iraq's national unity and territorial integrity.

52. Denunciations of violations of human rights of Iraqi citizens fell on deaf ears. For example, poison-filled rockets used by the United States forces had killed many children and had caused cancer, lung and kidney failure, and skin diseases. The use of such weapons ought to be denounced by the Sub-Commission and punished under international law.

53. There was much suffering in Iraq, but the Western countries had not responded to it and had frozen Iraqi assets abroad. His Government placed its hopes in the Sub-Commission's objectivity and neutrality to help it to have the embargo lifted and thus alleviate the sufferings of the Iraqi people.

54. Mr. JIN Yongjian (Observer for China) said that some NGOs had made many groundless allegations against China. With a view to clarifying the facts and enabling the members of the Sub-Commission to have a full and true picture of his country, he wished to give a brief account of the human rights situation there, with particular regard to the legal system.

55. First, China attached great importance to the promotion and protection of human rights. The Chinese people had suffered from aggression and exploitation for a long time, but the founding of the People's Republic in 1949 had put an end to that bitter history. The various human rights and fundamental freedoms provided for in the Constitution of China were the same as those provided for in the Universal Declaration of Human Rights, and they were enjoyed by the Chinese people in accordance with the relevant laws. Since the adoption of the policy of reform in 1979, the legal and democratic system had been strengthened. The sustained development of the national economy had been accompanied by a great improvement in the life of the Chinese people, which had never before enjoyed its human rights so fully.

56. Secondly, in order to prevent human rights violations and to investigate any that might occur, the Chinese Penal Code contained explicit provisions concerning the offences of infringing upon the rights of the individual and the democratic rights of citizens, as well as the offence of dereliction of

duty. The Penal Code imposed explicit penalties for such criminal acts as unlawful detention, unlawful surveillance, unlawful search, unlawful entry into the home, extortion of confessions by torture, corporal punishment and ill-treatment of prisoners, reprisals and plots against innocent persons, perjury, unlawful deprivation of religious freedom, and violation of the customs of national minorities.

57. In order to guarantee the independence of the judiciary, the Chinese Code of Criminal Procedure provided that procurators and courts should exercise their respective authority independently and obey only the law, without any interference from administrative organs, social organizations or individuals. There was also a provision that all citizens were equal before the law. Those arrangements helped to ensure that defendants in criminal proceedings could receive a fair trial. In order to make sure that those rules were implemented in judicial practice, the people's congresses at various levels and their standing committees were empowered to supervise the work of government and law-enforcement departments. Procurators were empowered to supervise the work of the courts and public security organs by enforcing discipline, and news agencies and the public could supervise such work through the media.

58. Thirdly, in China, citizens could supervise the work of government and judicial departments by such means as filing charges and submitting appeals. China's Code of Administrative Procedure provided that citizens might initiate proceedings in respect of any acts by State organs or their staff that infringed upon citizens' rights. The recently promulgated State Compensation Act provided that victims of violations committed by State organs or their staff were entitled to compensation. In order to improve awareness of human rights, the Chinese Government had carried out a nationwide education campaign since 1985 to promote a better understanding of the law.

59. Over the past two years, several white papers on human rights had been issued, including papers on human rights in China, the human rights situation in Tibet, the status of women, and penal reform. They were available to anyone interested.

60. Under Chinese law, suspects could be arrested and detained only by public security organs. Under the criminal law, unlawful detention or custody or deprivation of a person's freedom in any other way constituted an offence whose perpetrator was liable to a term of imprisonment of not more than three years, criminal detention, or deprivation of political rights. In cases involving battery or humiliation, the offender was liable to a more severe punishment.

61. The Code of Criminal Procedure especially provided that when arresting a person, a public security organ must produce a warrant and that, within 24 hours of the arrest, the family or unit of the arrested person must be notified of the reasons for the arrest and of the place of custody, except in circumstances where such notification would hinder the investigation or where there was no way of delivering it. The law prohibited corporal punishment, and any official who subjected prisoners or detainees to corporal punishment to extort a confession was liable to punishment proportionate to the

seriousness of the act. The situation in that regard had been explained in great detail in the supplementary information provided by his Government to the Committee against Torture.

62. Some NGOs had accused his Government of mounting a crack-down. Those allegations were either based on hearsay or maliciously fabricated rumours or on an inherent political bias against China. They did not square with the facts and were without any proof. His Government appreciated, supported and actively participated in activities designed to protect and promote human rights. It always stood ready to exchange experience and to cooperate and engage in dialogues with other countries on the basis of equality and mutual respect, seeking common ground while putting aside differences. It was, however, opposed to using human rights as a tool to exert political pressure upon sovereign States.

63. When assessing the human rights situation in a country, that country's history and socio-economic development should not be ignored. From the time of the Opium War in 1840 to the founding of the People's Republic in 1949, China had been a semi-feudal and semi-colonial society in which the vast majority of people had had no human rights at all. The founding of the People's Republic had created the essential conditions for the enjoyment of human rights. In recent years, China had enjoyed both political and social stability and economic development, particularly since 1992, when the Government had decided to speed up reform and economic liberalization. China's high rate of economic development had attracted the world's attention and, at the same time, its political reform was going steadily ahead. The country's unprecedented favourable situation opened up broader prospects for the enhancement of the people's enjoyment of all human rights and fundamental freedoms.

64. Mr. HLAING (Observer for Myanmar) said that the allegation that minority groups were being persecuted in Myanmar rang hollow at a time when his Government was making every effort to pursue a policy of national reconciliation which was producing positive results. Never before in the history of independent Myanmar had so many armed groups returned to the legal fold in such numbers. To date, 12 armed groups that had been in opposition to the Government had joined hands with it to promote national development.

65. Traditionally, relations among Myanmar's national groups had reflected political, economic and social interaction on the basis of equality and mutual accommodation. The strong Myanmar monarchy had contributed towards the unity of the national racial groups. However, in the latter part of the nineteenth century, Myanmar had lost its independence and colonial rule had changed the situation, giving rise to a sharp disparity of social and economic conditions among the different groups. In order to reduce that disparity and to bring about a better quality of life for the national racial groups in the border areas, his Government had, in 1992, established a separate Ministry for the Development of the Border Areas and National Races. Being very much aware that the solidarity of the Union depended on the development and stability of the national racial groups in the border areas, his Government, far from persecuting minority groups, was giving priority to comprehensive measures for their economic and social development, on which it had spent the equivalent of US$ 300 million since May 1989.

66. His Government's sincere efforts to secure national reconciliation through dialogue were bearing fruit. The 12 armed groups that had been in opposition had joined hands with the Government to promote economic and social development in their respective areas. The Government had also extended its invitation to the few remaining armed groups.

67. In Myanmar, the voluntary contribution of labour to build shrines, temples, roads and bridges and so forth was a time-honoured tradition. It was believed that the contribution of labour was a noble deed and that the merit obtained from it helped to bring about better personal well-being and spiritual strength. Thus the use of local labour on a voluntary basis for local community development could in no way be characterized as forced labour.

68. It was not true that the roads and bridges were being constructed for military purposes. The fruits of voluntary labour were enjoyed by the local people who had contributed to it. Of course, remuneration was given, either on a piece-rate basis or at prevailing wage rates. In some cases, the authorities disbursed a lump sum for the benefit of the whole community. As part of the tradition of using voluntary labour for community development, personnel from military units and government employees also volunteered to work on development projects. It was difficult to understand why such a noble community effort was causing such an outcry in certain quarters both inside and outside the country.

69. The reason was, however, a simple one. The community effort, which was being made largely in remote and border areas, was winning the hearts and minds of the local population, whose economic and social conditions were being improved thereby. That was a body-blow to certain armed groups that had been used to preying upon and terrorizing the local population. Consequently, it was also affecting their sympathizers and, unfortunately, persons unacquainted with Myanmar's culture and traditions.

70. The Special Rapporteur on the question of human rights and states of emergency had been informed that the state of emergency proclaimed in two areas of Myanmar in July and August 1988 had been lifted in August of the same year and was accordingly no longer in force.

71. Myanmar had always shown its goodwill and sincerity in cooperating with the United Nations, its specialized agencies and other organs. That cooperation, which was also extended to the Commission on Human Rights and its Special Rapporteur on the situation of human rights in Myanmar, would continue on a constructive and positive basis.

72. Mr. REZVANIAN (Observer for the Islamic Republic of Iran) said that the manipulation of human rights for political gains had serious implications not only for human rights and their universal enjoyment but also for the development of post-cold-war international relations and the relevance and integrity of international organizations. The treatment of the human rights situation in his country was probably the most illustrative example of that dangerous trend.

73. Over the years, his delegation had stressed the need for the international community to condemn acts of terrorism in Iran and had presented

ample evidence indicating that terrorist activities in Iran posed a threat to the enjoyment of human rights and were being instigated and organized from abroad. Acts of terrorism perpetrated by the so-called People's Mojahedin-E Khalq Organization (PMKO) had included placing a bomb inside the shrine of Imam Reza and exploding a bomb in the city of Mashad, as a result of which 26 pilgrims had been killed and 170 seriously injured. The perpetrator of the latter, sacrilegious, act of terrorism had confessed that he had acted upon the orders of the PMKO leaders.

74. The terrorists had also planned to bomb other religious sites, including a Sunni Muslim prayer congregation at Zahedan, but their plot had been thwarted. The recent killing of three Christian pastors had also been committed by members of PMKO, and the perpetrators had confessed that they had acted on the orders of the PMKO leadership. The purpose of those operations was to create ethnic and religious division and sectarian disputes in Iran between Shia and Sunni and between Muslims and Christians.

75. Those incidents had coincided with a ludicrous campaign alleging that Iran was sponsoring international terrorism by supporting the IRA in Northern Ireland, the Zapatistas in Mexico, the Basque separatist group ETA and the perpetrators of explosions in Buenos Aires and London. The campaign of misinformation had been linked with criticisms of Iran's alleged deficiencies in the area of human rights. His Government categorically refuted those preposterous charges and saw them as motivated by political considerations to depict Iran as a regional threat.

76. The source of most of the allegations levelled against his country had been the PMKO, which was also the main source for the reports presented by the Commission's Special Rapporteur on the situation of human rights in Iran.

77. His delegation welcomed the Sub-Commission's resolution 1993/13 in which it had expressed its deep concern at the persistence of acts of terrorism in all its forms and manifestations which endangered or took innocent lives. His Government was ready to invite any member or group of members of the Sub-Commission to come to Iran and to meet the victims or family members of victims of acts of terrorism. When considering the human rights situation in the Islamic Republic of Iran, the Sub-Commission should take into account the disastrous effects of terrorism in the country. The absence of a strong condemnation by the human rights organs of the United Nations would encourage terrorists to take the lives of more innocent people.

78. Mr. EL-HAJJE said that the state of human rights throughout the world displayed an unsatisfactory picture which was not in accordance with the aspirations of the Universal Declaration of Human Rights and the international community. No right mentioned in the Universal Declaration of Human Rights had been left unviolated. That was the terrifying situation currently facing the Sub-Commission.

79. The situation in the Middle East was not much different from that in the rest of the world, apart from the fact that Israel had acquired enormous and terrifying military power; every day Israeli soldiers and aircraft crossed the airspace of neighbouring countries while their rockets destroyed crops. Hundreds of villagers had been put in internment camps where they could not

receive visitors who might report on their physical and mental state. Such activities had disrupted development in southern Lebanon. By those acts, Israel was aggravating the situation in the region and was contradicting its statements that it wanted good relations with its neighbours.

80. The task confronting the Sub-Commission was first and foremost to draw the attention of Governments to such inappropriate behaviour and to acts contrary to international instruments. He had high expectations of the newly appointed High Commissioner for Human Rights, and the Sub-Commission must be prepared to offer him every assistance in carrying out his mandate.

81. The authors of the Universal Declaration of Human Rights had understood the need for democracy, which was mentioned in article 29. The international community must strive to promote democracy, development and the observance of human rights by establishing mechanisms to examine the relations between governors and the governed.

82. Democracy threatened no one; it helped to ensure that there was proper social organization and afforded protection by spreading the decision-making process over the whole structure of society. The citizen must be able to control the agents of the State, whether the administration, the army or the judiciary, in free association with other citizens. Impunity could thus be eliminated. It was essential that citizens should be able to express their views without fear.

83. He proposed that the Sub-Commission should consider adopting a resolution which would entrust one of its experts with the task of making a study of the obstacles to achieving a democratic society and the guarantees needed to maintain such a society.

84. The international community was well aware of the widespread nature of poverty. It was for that reason that the Charter of the United Nations had devoted a complete chapter to economic cooperation and why mechanisms to combat poverty had been established. States were paralysed by internal contradictions exacerbated by technological developments. Large States must stop manipulating small States. It was not possible for a small country to achieve economic development if it was overshadowed by a large State in its geographical area. Many small countries were in that position and the Sub-Commission should give some thought to the problem.

85. It was not possible to develop a country if much of its population felt itself to be excluded from the process of development and was simply biding its time to rise up against those in power. Recourse to violence and terrorism must be condemned, as it represented a clear threat to human rights. However, the international community could hardly ask a people whose land was being occupied and colonized to lay down its arms and rely on the good will of the occupier. That was a question which the Sub-Commission must address.

86. Ms. ABBAS (Observer for Pakistan) said that the report of the Secretary-General on the work of the organization, submitted in September 1993, clearly indicated that Kashmir was a disputed territory. The Constitution of India, by conferring a special status on India-held Kashmir in its article 370, recognized that the State was not an integral part of India.

The Simla Agreement signed by India and Pakistan on 2 July 1972, by referring to "final settlement" of the Jammu/Kashmir issue, had made it explicit that the territory was disputed.

87. At the fiftieth session of the Commission on Human Rights, an Indian minister of state had said that his Government would manifest still greater transparency in Jammu and Kashmir and would cooperate with the Commission's thematic rapporteurs. Amnesty International had been given similar assurances. That position had, however, been rescinded by the Government of India once the Commission had ended its session. Commenting on a conducted tour of the area by a number of ambassadors resident in New Delhi, the Iranian Ambassador had said that the ambassadors had been treated like hostages and were not allowed to move freely or talk freely. Nor had Amnesty International fared any better. The promised transparency had not been forthcoming.

88. Massive violations of human rights in Jammu/Kashmir continued to be perpetrated by the 500,000-strong occupation force. The issue could not be dismissed as a bilateral one. It was a human rights issue and, therefore, of interest to the international community at large.

89. The Prime Minister of Pakistan had taken urgent steps to improve and ameliorate the human rights situation in the country under her own direct supervision, and the same standards were applied in the part of Kashmir under Pakistani rule.

90. Mrs. SABHARWAL (Observer for India) said that, notwithstanding the existing safeguards in the country's constitutional and institutional structures, her Government was continuously engaged in structuring additional safeguards and guarantees. Most recently, an independent National Human Rights Commission had been established with wide-ranging powers, including that of inquiring into complaints of human rights violations or negligence in the prevention of such violations by public servants. She therefore regretted that principles of human rights and self-determination were being grossly misused by certain interested parties to violate the human rights of the people of India and to challenge the country's unity, political cohesion and territorial integrity.

91. Any call for self-determination in the Indian State of Jammu and Kashmir, in contravention of historical facts and international law, was motivated by the sole objective of territorial expansion. Jammu and Kashmir was not a monolith but a conglomerate of diverse ethnic, religious, linguistic and cultural identities. It was home to Muslims of various hues, Hindus, Buddhists, Sikhs and Christians, who had traditionally lived in harmony until Pakistan had introduced religion-based separatism through its sponsorship of terrorism in pursuit of its political objectives. The history of Pakistan itself had shown the tragic futility of basing nationhood on religion.

92. For Pakistan, self-determination for Jammu and Kashmir meant forced assimilation into Pakistan. The hollowness of Pakistan's assertion on self-determination for Jammu and Kashmir was evident in its total denial of the right to self-determination to the people of the part of Jammu and Kashmir which it had been illegally occupying for the last 47 years. In the so-called Northern Areas of Kashmir, even the basic rights of representation were denied

and no elections had been held to date, the territory being ruled directly from Islamabad. Pakistan had also ignored the socio-economic developmental needs of the Kashmiri people and the economy of Pakistan-occupied Kashmir continued to stagnate.

93. In contrast, the Indian State of Jammu and Kashmir had made considerable economic progress, and the people of the State had been encouraged to express their wishes. That process had led to the adoption by the Kashmiri people of a separate constitution for the State in 1956, in which they had confirmed the accession and declared themselves to be an integral part of India. Thereafter there had been repeated elections in the State thus allowing the people to choose their representatives freely and enjoy all civil, political, cultural and economic rights.

94. Jammu and Kashmir, a symbol of India's secular democracy, had become a target of Pakistan-sponsored terrorism which had taken a toll of many thousands of lives. Politicians, human rights activists, the media, academicians and government servants had been selectively targeted and eliminated. Baseless allegations by certain NGOs had echoed the voice of Pakistan and were part of a campaign of calumny and disinformation by motivated individuals and organizations in pursuit of a political agenda. India had nevertheless persevered with a spirit of openness and transparency by, for example, providing access to Jammu and Kashmir for countless foreign visitors. Her Government was committed to resolving the problems in the State of Jammu and Kashmir through a sustained revival of the political process.

95. Self-determination was not to be equated with religion or with extra-territorial ambitions. States were becoming more, not less, pluralist and had to be a common home in terms of equality for all the ethnic, religious and linguistic groups residing there. Terrorism posed the biggest threat to democracy and human rights; terrorism which exploited religious differences assumed a particularly malevolent form when it was sponsored from abroad for territorial ambitions. As the Commission on Human Rights had recommended in its resolution 1994/46, the Sub-Commission should undertake an in-depth study on terrorism and its impact on human rights.

96. Mr. EIDE said that he wished to clarify a point in his previous statement when, in dealing with the situation in Iran, he had used the following words: "It appears to be a problem of psychiatry rather than rational discourse". What he had wanted to convey was that some of the acts committed by agents of the Iranian State could not be based on reason in terms of current principles. Such acts included the stoning of women as a legal sanction and involvement in murders and acts of terrorism abroad. While such acts could not be based on reason, they might possibly be considered to have been based on faith, however misguided they were. Consequently, he withdrew his use of the word "psychiatry".

97. Mr. JOINET said that he had been surprised by the statement of the observer for Sudan that his Government cooperated with all the human rights bodies of the United Nations system. In that connection, he requested the Secretariat to distribute to the members of the Sub-Commission annex 2 to the report of the meeting of special rapporteurs and chairmen of working groups

following the World Conference on Human Rights (E/CN.4/95/5), as it drew attention to the serious accusations of pressure and intimidation to which the Special Rapporteur on the human rights situation in Sudan had been subjected. It seemed to him that there must be a better way of cooperating. The report of the Special Rapporteur might also be distributed to the members.

98. Mr. ALFONSO MARTINEZ said he would like to know the legislative basis on which the meeting of special rapporteurs and chairmen of working groups, referred to by Mr. Joinet, had been convened.

The meeting rose at 6.05 p.m.